

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 199**

Introduced by Vargas, 7; Hunt, 8.

Read first time January 08, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to privacy; to adopt the Face Surveillance

2 Privacy Act.

3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 6 of this act shall be known and may be  
2 cited as the Face Surveillance Privacy Act.

3           Sec. 2. The Legislature finds and declares that:

4           (1) Face surveillance poses unique and significant threats to the  
5 civil rights and civil liberties of the people of Nebraska;

6           (2) Face surveillance technology has a history of being far less  
7 accurate in identifying the faces of women, young people, and people of  
8 color. Such inaccuracies place certain persons at a higher risk of  
9 harmful false positive identifications. Many of the data bases to which  
10 face surveillance technology is applied are plagued by racial and other  
11 biases, which generate copycat biases in face surveillance data;

12           (3) The broad application of face surveillance in public spaces is  
13 the functional equivalent of requiring every person to carry and display  
14 a personal photo identification card at all times, which constitutes an  
15 unacceptable mass violation of privacy;

16           (4) The public use of face surveillance can chill the exercise of  
17 constitutionally protected free speech; and

18           (5) The benefits of using face surveillance, which are few and  
19 speculative, are greatly outweighed by its harms, which are definite and  
20 substantial.

21           Sec. 3. For purposes of the Face Surveillance Privacy Act:

22           (1)(a) Face surveillance means an automated or semi-automated  
23 process that assists in identifying an individual or capturing  
24 information about an individual based on the physical characteristics of  
25 an individual's face.

26           (b) Except as provided in subdivision (1)(c) of this section, face  
27 surveillance does not include the use of data bases comprised of  
28 information collected or obtained with the consent of the person depicted  
29 and which is contained in or associated with government identification  
30 documents; missing persons records; records created by schools, jails, or  
31 prisons.

1       (c) Face surveillance includes the use of any data base or record  
2 described in subdivision (1)(b) of this section if the governmental  
3 entity is using such data base or record in conjunction with information  
4 received from any other face surveillance source not described in  
5 subdivision (1)(b) of this section;

6       (2) Face surveillance system means any computer software or  
7 application that performs face surveillance; and

8       (3) Governmental entity means a branch, department, or agency of  
9 this state or any of its political subdivisions, any official or employee  
10 thereof, or any person acting as an agent for any of such entities.

11       Sec. 4. It shall be unlawful for any governmental entity to obtain,  
12 retain, access, or use:

13       (1) Any face surveillance system; or

14       (2) Any information obtained from a face surveillance system.

15       Sec. 5. (1) No data collected or derived from any use of face  
16 surveillance in violation of section 4 of this act and no evidence  
17 derived therefrom may be received in evidence in any trial, hearing, or  
18 other proceeding in or before any court, grand jury, department, officer,  
19 agency, regulatory body, legislative committee, or other authority  
20 subject to the jurisdiction of this state, including a political  
21 subdivision thereof.

22       (2) Data collected or derived from any use of face surveillance in  
23 violation of section 4 of this act shall be considered unlawfully  
24 obtained and shall be deleted upon discovery.

25       Sec. 6. (1) Any violation of section 4 of this act constitutes an  
26 injury and any person aggrieved by such violation may bring a civil  
27 action for appropriate relief against the governmental entity committing  
28 such violation.

29       (2) In a civil action under this section, appropriate relief  
30 includes:

31       (a) Such preliminary and other equitable or declaratory relief as

1 may be appropriate;

2 (b) Actual damages; and

3 (c) Reasonable attorney's fees and other litigation costs reasonably  
4 incurred.

5 (3) This section does not authorize civil actions against individual  
6 government officials or employees in their individual capacities.